



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes

CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, October 12, 2011

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Annette Lewis, Grif Chalfant, Johnny Sinclair, Van Pearlberg,
Rev. Anthony Coleman, Jim King, and Philip M. Goldstein

Also Present:

William F. Bruton, Jr. City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor R. Steve Tumlin called the meeting to order at 7:03 p.m.

INVOCATION:

Mayor Tumlin called upon Council member Jim King to give the invocation.

PLEDGE OF ALLEGIANCE:

Council member Jim King called upon the students present from Park Street Elementary School to lead the pledge of allegiance.

PRESENTATIONS:

20110942

Heroic Act of Bravery

Presentation to Mr. Cedric White for risking his own life by entering a burning building to assist in the evacuation of tenants and saving the life of a child on August 29, 2011.

Recognized

20110713 Law Enforcement National Data Exchange (N-DEx)

Recognition of the IT Department for becoming the first agency in the state of Georgia to successfully submit data to the Law Enforcement National Data Exchange (N-DEx). The vision of N-DEx is to enable the sharing of complete, accurate, timely, and useful information across jurisdictional boundaries and to provide new investigative tools that enhance the nation's ability to fight crime and terrorism.

Presented**20110917 Karmen Scarbro, Tim George and Kim Holland present the Park St. Elementary Poster Contest Winners for Public Power & Clean Water Week.**

The Poster Contest Theme is "I am Power Smart" or "I am Water Smart."

Water Award Recipients

Grand Prize Winner - Peyton Blue, 3rd Grade

1st Place - Manuel Dominguez, 5th Grade

2nd Place - Emmanuel Diaz Peralta, 3rd Grade

3rd Place - George Thuita, 5th Grade

Power Award Recipients

Grand Prize Winner - Nadia Archer, 4th Grade

1st Place - Jose Ortiz, 5th Grade

2nd Place – Terriana Gates, 5th Grade

3rd Place - Kevin Vasquez, 3rd Grade

Presented**PROCLAMATIONS:****20110890 Proclamation - Fire Prevention Month**

Presentation of a Proclamation to Lt Patrick Stewart, proclaiming October 9-15, 2011 as "Protect Your Family from Fire!" week in the city of Marietta.

Presented**20110894 Proclamation - Domestic Violence Awareness Day**

Proclamation declaring October 27, 2011 as DOMESTIC VIOLENCE AWARENESS DAY throughout the City of Marietta, asking all to join together in efforts to eliminate domestic violence in our state, our counties and our homes.

Presented

20110872

Proclamation - Diaper Day

Presentation of a Proclamation declaring October 24, 2011 as the Third Annual "Cobb Diaper Day" in the City of Marietta. The Cobb Diaper Day Committee is committed to asking the business community, concerned citizens, and non-profit organizations, to collect diapers from employees, members and friends throughout the month of October. The single act of donating diapers on Monday, October 24, 2011 at 5:00 PM at Glover Park, on the Marietta Square can help hundreds of families in Cobb County.

Presented**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:**

Council member Lewis reminded everyone about the parks tour and informational meeting that will be held October 13, 2011, to discuss planned parks improvements. The tour will begin at 6 p.m., with the informational meeting immediately following at the Marietta Sixth Grade Academy.

SCHEDULED APPEARANCES:**UNSCHEDULED APPEARANCES:**

Mr. Larry Wills, who resides at 60 Oakmont Drive, expressed concern regarding the following agenda items: 20110778, Property Acquisition 268 Lawrence Street and 20110779, Leasing of 268 Lawrence Street. Both items were approved during the September 14, 2011 City Council agenda.

Michael Sabbagh, who resides at 1600 Summittview Way, Snellville GA, spoke regarding property located at 555 Commerce Avenue, owned by Waleed "Lee" Jaraysi.

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Mayor Tumlin called upon Mayor Pro tem, Johnny Sinclair, to preside over this portion of the meeting. Mayor Pro tem Sinclair briefly explained the consent agenda process.

Council member Goldstein disclosed that he owns and/or has interest in property adjacent to 72 Atlanta Street Marietta, and elects to abstain on this item. The tenant and or sub tenant of the property is also a tenant in property that he and/or his family members own, and/or an entity owned by him or family members.

A motion was made by Council member Lewis, seconded by Council member Sinclair, to add an item to the consent agenda authorizing acquisition of easements and right of way within property located at 72 Atlanta Street from William D. and Earl H. Young, for the purpose of constructing the Atlanta Street Improvement Project - Waverly Way to Waterman Street in exchange for \$95,000 with stipulations per mediation. The motion carried by the following vote:

Vote: 6 - 0 - 0 Approved
Abstaining: Philip M. Goldstein
(See agenda item 20110954)

A motion was made by Council member King, seconded by Council member Coleman, to approve the consent agenda as modified. The motion carried by the following vote:

Vote: 7 - 0 - 0 Approved
with the following exceptions:
Council member Goldstein abstaining on agenda item 20110954.

MINUTES:

*** 20110906 Regular Meeting - September 14, 2011**

Review and approval of the September 14, 2011 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

*** 20110913 Special Meeting - September 27, 2011**

Review and approval of the September 27, 2011 special meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

MAYOR'S APPOINTMENTS:

CITY COUNCIL APPOINTMENTS:

*** 20110902 Marietta Historic Preservation Commission Appointment**

Reappointment of Rebecca Nash Paden (Ward 6) to the Marietta Historic Preservation Commission for a term of three years, expiring September 14, 2014.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

ORDINANCES:**20110697****Z2011-12 Crown Towing 503 Commerce Park Drive, Suite H**[Ord 7561](#)

Z2011-12 [SPECIAL LAND USE PERMIT] CROWN TOWING requests a Special Land Use Permit for property located in Land Lot 04310, District 17, Parcel 0170, 2nd Section, Marietta, Cobb County, Georgia and being known as 503 Commerce Park Drive, Suite H, currently zoned LI (Light Industrial). Ward 1.

Mayor Tumlin called upon the City Attorney Douglas Haynie, who explained the rules of order and swore in those wishing to speak.

Stacy Tillman, who resides at 25 Atlanta Street, requested a Special Land Use Permit for property located at 503 Commerce Park Drive, Suite H, currently zoned LI (Light Industrial), to be used a tow lot. Mrs. Tillman also read stipulations that were recommended by the Planning Commission and to which she has agreed.

Discussion was held regarding the stipulations recommended by the Planning Commission, specifically the timeframe for which the vehicles would remain on the lot. There was general agreement to add a stipulation that no vehicles would be kept on the lot in excess of 90 days.

Mayor Tumlin closed the public hearing.

Motion to approve a Special Land Use Permit to operate an automobile storage yard service is hereby approved, for property located at 503 Commerce Park Drive, Suite H, with the following stipulations incorporated as conditions of zoning:

- 1. Repair hole #1 in existing concrete measuring 7' x 7';*
- 2. Repair hole #2 in existing concrete measuring 5' x 12";*
- 3. Seal all cracks in existing concrete;*
- 4. Kill and remove all existing weeds on concrete pad;*
- 5. Repair fence at perimeter of concrete pad;*
- 6. Install signage at entrance to fenced area.*
- 7. This lot will be used to tow vehicles that have parked illegally. No vehicles will be kept on the lot in excess of 90 days.*

The motion was made by Council member Lewis, seconded by Council member Pearlberg, that this matter be Approved as Amended. The motion carried by the following vote:

Vote: 7 - 0 - 0**Approved as Amended****20110803****Z2011-14 Eddie R. Gomez 712 Lawrence Street**[Ord 7562](#)

Z2011-14 [REZONING] EDDIE R. GOMEZ request rezoning for property located in Land Lot 12140, District 16, Parcel 0910, 2nd Section, Marietta, Cobb County, Georgia and being known as 712 Lawrence Street from CRC (Community Retail Commercial) to R-4 (Single Family Residential - 4 units/acre). Ward 5.

Mayor Tumlin called upon the City Attorney Douglas Haynie, who swore in those wishing to speak.

The applicant Eddie Gomez, who resides at 2240 Mantia Court Acworth, GA, requested rezoning for property located at 712 Lawrence Street from CRC (Community Retail Commercial) to R-4 (Single Family Residential - 4 units/acre), to be used as a residence for his brother-in-law.

Discussion was held regarding the rezoning request, specifying the area to allow gravel as an acceptable surface treatment for the parking of vehicles.

Mayor Tumlin closed the public hearing.

Motion to approve rezoning for property located at 712 Lawrence Street from CRC (Community Retail Commercial) to R-4 (Single Family Residential 4 units/acre), with the following variances incorporated as conditions of zoning:

- 1. Variance to reduce the side setback from 10' to 0' only for the existing shed located along the western property line as indicated on the survey for Bobby Lipop & Eddie Gomez dated November 28, 2009. [Section 708.04 (H)]*
- 2. Variance to allow gravel as an acceptable surface treatment for the parking of vehicles within the hatched area shown on the property as indicated on the survey for Bobby Lipop & Eddie Gomez dated November 28, 2009. [Section 716.08 (A) and (B)]*
- 3. These stipulations shall be discontinued upon the redevelopment of the site.*

The motion was made by Council member Pearlberg, seconded by Council member Sinclair, that this matter be Approved as Amended. The motion carried by the following vote:

Vote: 5 - 2 - 0 **Approved as Amended**
Voting Against: Annette Lewis and Philip M. Goldstein

RESOLUTIONS:

*** 20110944 Sunday Alcohol Sales**

Motion to approve Resolution calling for Referendum by the Citizens of Marietta on whether or not to authorize Sunday Alcohol Sales within the City of Marietta.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

CITY ATTORNEY'S REPORT:

*** 20110940 Denial of Claim**

Denial of Claim of Christopher Barton.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 **Approved**

CITY MANAGER'S REPORT:**MAYOR'S REPORT:****COMMITTEE REPORTS:****1. Economic/Community Development: Grif Chalfant, Chairperson***** 20110877 FFY' 2012 CDBG Project List**

Approval of a Resolution submitting the FFY'2012 CDBG Final Statement Projects List to Cobb County for inclusion in their submittal to the U.S. Department of Housing and Urban Development (HUD); and further, the use of \$438,772 of CDBG FFY'2012 funds the city will receive from HUD.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

2. Finance/Investment: Annette Lewis, Chairperson*** 20110787 Donation to the Tree Preservation Fund by DR Horton****[Ord 7560](#)**

Approval of an Ordinance amending the Fiscal Year 2012 Tree Preservation Fund budget to receive and appropriate a donation from DR Horton

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20110850 Department of Justice Grant****[Ord 7557](#)**

Approval of an Ordinance amending the Fiscal Year 2012 Grant Fund to receive and appropriate a grant from the Department of Justice for \$44,573 to purchase two police vehicles for uniform patrol.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

3. Judicial/Legislative: Philip M. Goldstein, Chairperson*** 20110889 Authorization to advertise amendments to sidewalk ordinance**

Motion to authorize advertisement of an Ordinance amending Section 732.07, Sidewalks.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

20110873

Marietta Historic District Rules/Regulations**Ord 7563**

Motion to approve amendment to Rules and Regulations related to the Marietta Historic District, Article 7-8-8, entitled Historic District. This motion includes approval of amending any other Code Section related to this matter.

Councilman Goldstein previously disclosed that he and family members and or entities that he owns or has an ownership interest, in owns property and or business in the Downtown Marietta area and the Downtown Marietta Historic District.

Mayor Steve Tumlin previously disclosed that he has a legal practice and is a tenant within the Historic District.

Mayor Tumlin called for discussion or motion regarding this matter.

A motion was made by Council member Goldstein, seconded by Council member Coleman, to refer this matter back to the Judicial/Legislative Committee for further review. The motion carried by the following vote:

Vote: 4 - 3 - 0

Approved

Voting Against: Grif Chalfant, Johnny Sinclair and Van Pearlberg

Mayor Tumlin vetoed the motion.

(The official veto of the motion by Mayor Tumlin is on file in the City Clerk's Office.)

In depth discussion was held regarding the composition of the Historic Board of Review, building additions and/or changes that would require a Certificate of Approval and which items would come before Council for approval.

The following are substantial amendments were made to the document:

7-8-8-050 - Certificate of approval required.

-On page 3, (3) should read, "Except housecleaning, any material work on the exterior appearance of existing buildings classified as historic by additions, reconstruction, rehabilitation, alteration, or any maintenance (including exterior color), or any material exterior changes."

-On page 3, (B) should read, "An approved certificate of approval must be implemented by the issuance of a building permit (when required by the City Code) and the commencement of substantial and ongoing construction within a period of 12 months from the date of approval and if the issuance of a building permit (when required by the City Code)..."

7-8-8-080 - Board of review Creation and Composition...

-On page 4, (1) should read, "The Mayor and City Council shall appoint nine (9) members to the Marietta Historic Board of Review..."

-On page 5, (2) should read, "The seven members of the Marietta City Council shall each nominate one member to the Board and the Mayor of the City of Marietta shall nominate one Member to the Board. In addition, the Mayor and City Council shall nominate an "at-large" member who shall have demonstrated an expertise or special interest, experience or education in history, architecture or preservation. Each member nominated shall be subject to the approval of the

Mayor and City Council..."

-On page 5, (F) should read, "...Upon such resignation, the vacancy shall be appointed in the same manner as the original appointment..."

A motion was made to approve the Marietta Historic District Rules/Regulations, as amended.

The motion was made by Council member Chalfant, seconded by Council member King, to approve the Marietta Historic District Rules/Regulations, as amended. The motion carried by the following vote:

Vote: 4 - 3 - 0

Voting Against: Annette Lewis, Rev. Anthony Coleman and Philip M. Goldstein

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson

*** 20110893 Farmer's Market**

Motion approving closure of Mill St. between Church St/W. Park Sq. and the railroad tracks Saturday mornings from January 7 to March 31, 2012 from 8 a.m. to 1 p.m. for the purpose of conducting a winter edition of the Saturday Farmer's Market.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

5. Personnel/Insurance: Van Pearlberg, Chairperson

*** 20110886 Marietta/BLW FY 012 Pay and Classification Plans and Position Allocation Chart**

[Ord 7559](#)

Approval of an Ordinance amending the City of Marietta/BLW FY012 pay and classification plans and position allocation chart to create and add one position of Engineering Training Manager to be temporarily assigned to the Electrical Division of the BLW.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

*** 20110887 Electrical Line Worker Test Schedule and Pay Plan**

[Ord 7558](#)

Approval of an Ordinance revising the Electrical Line Worker Test Schedule and Pay Plan to reflect changes in the time period required to advancing from Steps One to Four.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

*** 20110880 2011 SPLOST Funding Schedule**

Motion to approve the 2011 SPLOST Funding Schedule.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20110882 Recycle Bank Promotional Program**

Motion to enter into a joint agreement with Recyclebank to participate in a promotional version of their Curbside Recycling Incentives Program.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

APPEARANCES:

OTHER BUSINESS:

*** 20110939 NLC Annual Congress of Cities Business Meeting**

Motion appointing Philip M. Goldstein as voting delegate for the National League of Cities (NLC) Congress of Cities' Annual Business Meeting to be held November 12, 2011 in Phoenix, AZ.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20110907 BLW Actions of October 10, 2011**

Review and approval of the October 10, 2011 actions and minutes of the Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20110954** **72 Atlanta Street**

Motion authorizing acquisition of easements and right of way within property located at 72 Atlanta Street from William D. and Earl H. Young, for the purpose of constructing the Atlanta Street Improvement Project - Waverly Way to Waterman Street in exchange for \$95,000 with stipulations per mediation.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 1 Approved
Abstaining: Philip M. Goldstein

UNSCHEDULED APPEARANCES:

ADJOURNMENT:

The meeting was adjourned at 9:45 p.m.

Date Approved: **November 7, 2011**

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk